IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.181 OF 2005

Dr.Sudhir Shetkar .. .. Petitioner
v/s.
Director of Medical Education & Research & ors. .. .. Respondents

Mr.M.M. Vashi with Mr.Santosh Shetty for petitioner.

Mr.Mohan Naik, AGP for res.No.1.

Mr.Y.S.Bhate with Mr.D.A. Dubey for res.No.2.

Ms.Simran Puri for res.No.3.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 31ST MARCH 2005

P.C. :

1. Heard the learned counsel for the parties.

2. This petition is about the post graduate medical seats and their distribution amongst the various categories viz. as to how many seats should go as per All India examinations, how many for the State quota and how many for the reserved categories. The petitioner is concerned with one of those open category seats from the State and he is aggrieved and seeks to challenge through prayer

(a) the circular dated 7th December 2004 issued by the Director General of Health Services. This circular was also under challenge in a petition being Writ Petition (Civil) No.18 of 2005 filed one Shri Buddhi Prakash Sharma in the Apex Court. Interim Applications have been moved in that petition and an order has come to be passed on 28th February 2005. The Additional Solicitor General, who appeared in that matter, frankly submitted before the Apex Court that the said letter dated 7th December 2004 could not be sustained and was therefore set aside. It ran counter to the judgment rendered earlier in the case of **Sourav Choudhary vs. Union of India reported in (2003) 11 SCC 146**. Therefore, as far as prayer (a) is concerned, we need not go into it any more.

3. The other prayers in the petition are with respect to the appropriate distribution amongst the three categories. The Apex Court has clarified the position and there need not be any controversy in view of the judgment in the case of Sourav Choudhary (supra) that 50% of the total number of seats have to be allotted to the All India quota. Out of the remaining 50% seats, 25% would go to the various reserved categories

available in the State and 25% would be available to the open categories. The calculations reflected in the letter dated 27th January 2005 from the Director of Medical Education & Research to the Director General of Health Services are, therefore, erroneous. If the total number of seats are 992, half of them i.e. 496 will have to be made available to the All India quota. 50% of the remaining half i.e. 248 will be available to the various reserved categories of the seats in the State and 248 seats to the open categories. That takes care of the appropriate distribution of the total number of seats.

4. There is one more grievance in the petition and that is through prayer clause (b)(ii), namely, that the students who had cleared the post graduate medical admission examinations in the year 2004 are now sought to be allocated towards the seats of 2005-2006. That surely cannot be done in view of the judgment of the Apex Court in the case of **Medical Council of India vs. Madhu Singh & others reported in (2002) 7 SCC 258** which laid down that all such admissions to be completed by 30th September of each year. The seats of the last year cannot be carried forward to the present year. The petition is disposed of

in this manner.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)